

REMARKS

Claims 1-4 and 6-18 are pending. Claims 1-4 and 6-18 stand rejected. None of the claims have been amended herein.

IMPROPER TO MAKE NEXT OFFICE ACTION FINAL

“The examiner’s action will be complete as to all matters, except that in appropriate circumstances, such as mis-joinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made” (emphasis added; 37 CFR §1.104(b)). “In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command” (37 CFR §1.104(c)(2)). In particular, “[w]here a claim is refused for any reason relating to the merits thereof it should be “rejected” and the ground of rejection fully and clearly stated” (emphasis added; MPEP §707.07(d)). Applicants respectfully submit that the Office Action mailed August 19, 2010 did not respond to Applicants’ remarks. For example, although the current Office Action mailed August 19, 2010 continues to rely on Whipple, the Office Action mailed August 19, 2010 did not respond to Applicants’ remarks that Whipple does not teach device-agnostic to device specific on pages 10-12 of Applicants’ Appeal Brief mailed February 24, 2010 and Whipple does not teach a device translator corresponding to a network device on page 13 of Applicants’ Appeal Brief mailed February 24, 2010. Therefore, it would be improper for the next Office Action to be made final.

35 U.S.C. 103

Claims 1-4 and 6-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 20020038340 by Whipple et al. (referred to hereinafter as “Whipple”) in view of U.S. Patent No. 6,594,823 by Corbin (referred to hereinafter as “Corbin”). Applicants have reviewed the asserted art and respectfully submit that the asserted art does not teach or suggest the embodiments recited by the instant Application for at least the following rationale.

“As reiterated by the Supreme Court in KSR, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)).

Applicants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Applicants respectfully submit that the instant Office Action fails to explain the differences between the asserted art and Applicant’s claimed features, in which the asserted art fails to teach, describe, or suggest features of Applicant’s claimed embodiments. Moreover, Applicants respectfully submit that the instant Office Action fails to explain why these differences would have been obvious to one of ordinary skill in the art.

WHIPPLE

This section describes Applicants’ understanding of what Whipple teaches. Applicants understand Whipple to teach facilitating communications in a distributed network environment between clients where the communications involve electronic market places such as business-to-consumer (“B2C”) or business-to-business (“B2B”) with different sets of software applications (title, 0003 lines 1-5). To facilitate the communications, Whipple teaches a request broker that receives a wrapped request, determines the native format of the parameters of the wrapped request where the parameters native format is the requesting client’s native format, selects an adapter based on the native format, sends the parameters in the native format to the selected

adapter, which then converts the parameters to a recipient's native format (0023, 0016 lines 10-14). The process is essentially reversed to provide a return value, where the return value is converted from the recipient's native format to the client's native format (0024, 0016 lines 10-14).

Applicants understand Whipple to require translating the parameters from one native format into another native format since Whipple's intended purpose is to facilitate communications between clients where the communications involve electronic market places such as business-to-consumer ("B2C") or business-to-business ("B2B") with different sets of software applications (title, 0003 lines 1-5).

DIFFERENCES BETWEEN WHIPPLE AND CLAIM 1

Applicants respectfully submit that Whipple determines Whipple's adapter by reading a file wrapper instead of "wherein a type of network device associated with a received device-agnostic policy implantation is identified by parsing tags of data from said received device-agnostic policy implementation represented using Extensible Markup Language (XML)," as recited by independent Claim 1. Further, the Office Action states that Whipple does not teach "parsing tags of data from said received device agnostic policy implementation represented..." as recited. Applicants respectfully agree.

NO MOTIVATION TO COMBINE WHIPPLE WITH ANY OTHER ASSERTED ART

This section describes why there is no motivation to combine Whipple with any other asserted art because Applicants' understand Whipple to teach away from independent Claim 1.

Applicants respectfully submit that "[i]t is improper to combine references where the references teach away from their combination" (emphasis added; MPEP 2145(X)(D)(2); *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)). Applicants respectfully note that "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed

invention” (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)). Further, “[a] reference will teach away if it suggests that the line of development flowing from the reference’s disclosures is unlikely to be productive of the result sought by the applicant. *In re Gurley*, 31 USPQ2d 1130 (Fed. Cir. 1994).”

Applicants respectfully submit that Whipple does not teach or suggest “a plurality of device-agnostic policy implementations...a plurality of device translators, each device translator corresponding to a respective one of said plurality of network devices...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations,” as recited by independent Claim 1.

First, Applicants understand Whipple to teach translating the parameters from one native format into another native format instead of “device agnostic policy implementations... translating said device-agnostic policy implementation into corresponding device-specific implementations,” as recited by independent Claim 1.

Further, Applicants respectfully submit that Whipple teaches away from “...translating said device-agnostic policy implementation into corresponding device-specific implementations.” For example, as discussed herein, Applicants understand Whipple to require translating the parameters from one native format into another native format in order to achieve Whipple’s intended purpose is to facilitate communications between clients where the communications involve electronic market places such as business-to-consumer (“B2C”) or business-to-business (“B2B”) with different sets of software applications (title, 0003 lines 1-5). Applicants respectfully submit that requiring translation of parameters from one native format into another native format teaches away from “...translating said device-agnostic policy implementation into corresponding device-specific implementations.”

Second, Applicants understand Whipple to teach that there is an adapter for each requesting client's native format since Whipple teaches selecting an adapter based on the requesting client's native format where the adapter converts parameters from one native format into another native format (0023, 0016 lines 10-14). Applicants respectfully submit that an adaptor for each requesting client's native format where the adapter converts parameters from one native format into another native format does not teach or suggest "each device translator corresponding to a respective one of said plurality of network devices...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations," as recited by independent Claim 1. Further, Applicants respectfully submit that selecting an adapter based on the requesting client's native format where the adapter converts parameters from one native format into another native format teaches away from "each device translator corresponding to a respective one of said plurality of network devices...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations," as recited by independent Claim 1.

Since Whipple teaches away from Claim 1, there is no motivation to combine Whipple with any other asserted art, such as Corbin.

Further, since Applicants do not understand Whipple to teach "a plurality of device-agnostic policy implementations.....a plurality of device translators, each device translator corresponding to a respective one of said plurality of network devices ...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations," as recited by independent Claim 1, Applicants respectfully submit that Whipple cannot teach any of the other features recited by independent Claim 1. Therefore, Applicants respectfully submit that Whipple does not teach or suggest,

a plurality of device-agnostic policy implementations, in which the device-agnostic policy implementations include non-security policy implementations;
a plurality of network devices, at least two of said devices being dissimilar, wherein a type of network device associated with a received device-agnostic policy implementation is identified by parsing tags of data from said received

device-agnostic policy implementation represented using Extensible Markup Language (XML); and

a plurality of device translators, each device translator corresponding to a respective one of said plurality of network devices, at least two of said device translators being dissimilar, each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations, wherein subsequent additions or maintenance of any of said plurality of said plurality of network device-agnostic policy implementations are provided using device-agnostic files,

as recited by independent Claim 1.

CORBIN

This section describes Applicants' understanding of what Corbin teaches. Applicants understand Corbin to teach using tags to create a data structure that is generic with respect to different programming languages to avoid writing the data structure in each applicable language (title, abstract, Col. 1 lines 15-28, Col. 4 lines 13-16).

CORBIN DOES NOT REMEDY THE DEFICIENCIES OF WHIPPLE

Applicants respectfully submit that Corbin does not remedy the deficiencies in Whipple. For example, as discussed herein, Applicants do not understand Whipple to teach or suggest "a plurality of device-agnostic policy implementations... wherein a type of network device associated with a received device-agnostic policy implantation is identified by parsing tags of data from said received device-agnostic policy implementation represented using Extensible Markup Language (XML)...a plurality of device translators...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations," as recited by independent Claim 1. Applicants understand Corbin to teach using tags to create a data structure that is generic with respect to different programming languages (title, abstract, Col. 1 lines 15-28, Col. 4 lines 13-16). Applicants respectfully submit that a data structure that is generic with respect to different programming languages does not remedy the deficiencies in Whipple.

Second, Applicants respectfully submit that since Whipple teaches away from “device-agnostic policy implementations,” “translating said device-agnostic policy implementation into corresponding device-specific implementations,” and “each device translator corresponding to a respective one of said plurality of network devices...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations,” as discussed herein, there is no motivation to combine Corbin with Whipple.

SUMMARY

Therefore, Applicants respectfully submit that Claim 1 is patentable over the combination of Whipple and Corbin in that neither Whipple or Corbin teach or suggest “a plurality of device-agnostic policy implementations... wherein a type of network device associated with a received device-agnostic policy implantation is identified by parsing tags of data from said received device-agnostic policy implementation represented using Extensible Markup Language (XML)...a plurality of device translators, each device translator corresponding to a respective one of said plurality of network devices ...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations,” and Whipple teaches away from “device-agnostic policy implementations,” “translating said device-agnostic policy implementation into corresponding device-specific implementations,” and “each device translator corresponding to a respective one of said plurality of network devices...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations,” among other things, as recited by independent Claim 1.

For similar reasons, Applicants respectfully submit that independent Claims 10 and 18 are also patentable over the Whipple Corbin combination.

Claims 2-4 and 6-9 depend on independent Claim 1. Claims 11-17 depend on independent Claim 10. These dependent claims include all of the features of their respective independent claims. Therefore, these dependent claims should be

patentable for at least the reasons that their respective independent claims should be patentable.

CONCLUSION

Based on the arguments presented above, Applicants respectfully assert that Claims 1-4 and 6-18 overcome the rejections of record and, therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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